

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

R. Auk
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BOBBY REX STRIBLING, JR.,

Plaintiff,

v.

CIVIL ACTION NO.: CV210-069

WAYNE COUNTY JAIL; JOHN
CARTER, Sheriff; GARY "BO"
JACKSON, Captain; and JAMES
BUNCH, Sgt.,

Defendants.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, an inmate presently confined at the Wayne County Jail in Jesup, Georgia, filed an action filed pursuant to 42 U.S.C. § 1983. An inmate proceeding in a civil action against officers or employees of government entities must comply with the mandates of the Prison Litigation Reform Act, 28 U.S.C. §§ 1915 & 1915A. In determining compliance, the court shall be guided by the longstanding principle that *pro se* pleadings are entitled to liberal construction. Haines v. Kerner, 404 U.S. 519, 520 (1972); Walker v. Dugger, 860 F.2d 1010, 1011 (11th Cir. 1988).

28 U.S.C. § 1915A requires a district court to screen the complaint for cognizable claims before or as soon as possible after docketing. The court must dismiss the complaint or any portion of the complaint that is frivolous, malicious, fails to state a

claim upon which relief may be granted, or seeks monetary damages from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1) and (2).

In Mitchell v. Farcass, 112 F.3d 1483, 1490 (11th Cir. 1997), the Eleventh Circuit interpreted the language contained in 28 U.S.C. § 1915(e)(2)(B)(ii), which is nearly identical to that contained in the screening provisions at § 1915A(b). As the language of § 1915(e)(2)(B)(ii) closely tracks the language of Federal Rule of Civil Procedure 12(b)(6), the court held that the same standards for determining whether to dismiss for failure to state a claim under Rule 12(b)(6) should be applied to prisoner complaints filed pursuant to § 1915(e)(2)(B)(ii). Mitchell, 112 F.3d at 1490. The court may dismiss a complaint for failure to state a claim only where it appears beyond a doubt that a *pro se* litigant can prove no set of facts that would entitle him to relief. Hughes v. Rowe, 449 U.S. 5, 10 (1980); Mitchell, 112 F.3d at 1490. While the court in Mitchell interpreted § 1915(e), its interpretation guides this court in applying the identical language of § 1915A.

Plaintiff contends that defendants Jackson, Bunch, and Carter allowed general population and segregated inmates to remain together unsupervised during visiting hours. Plaintiff claims that he was attacked by another inmate during visiting hours and that his right knee was injured during the altercation. Plaintiff states that despite the fact that Defendant Bunch took Plaintiff to the medical center, no one was working and he never received treatment for his injured knee. Plaintiff lists Wayne County Jail as one of the defendants in this case.

Plaintiff's claims against the Wayne County Jail should be dismissed. While local governments qualify as "persons" to whom § 1983 applies, Monell v. Dep't of Soc. Servs., 436 U.S. 658, 663 (1978); Parker v. Williams, 862 F.2d 1471, 1477 (11th Cir. 1989), penal institutions are not generally considered legal entities subject to suit. See Grech v. Clayton County, Ga., 335 F.3d 1326, 1343 (11th Cir. 2003).

Plaintiff's remaining claims are addressed in an Order of even date.

CONCLUSION

Based on the foregoing, it is my **RECOMMENDATION** that the Wayne County Jail be **DISMISSED** as a defendant in this case.

SO REPORTED and RECOMMENDED, this 1st day of July, 2010.



JAMES E. GRAHAM
UNITED STATES MAGISTRATE JUDGE